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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,607	10/30/2000	Kaushal Kurapati	US000256	6742

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EXAMINER

USTARIS, JOSEPH G

ART UNIT	PAPER NUMBER
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2611

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DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/699,607

Applicant(s)

KURAPATI, KAUSHAL

Examiner

Joseph G Ustaris

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment dated 08 March 2004 in application 09/699,607.

The amendment to the specification filed on 08 March 2004 does not comply with the requirements of 37 CFR 1.121(b) because a paragraph must be replaced in its entirety and not just a portion of the paragraph. For example, in applicant's case, a proper amendment to the specification would be to replace the paragraph of page 8 line 25 thru page 9 line 9. Therefore, the amendment to the specification has not been entered.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Fig. 4 elements 450 and 460. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al. (US006133909A) in view of Wehmeyer et al. (US005867226A).

Regarding claim 1, Schein et al. discloses a method where it searches an available program guide or “obtaining a list of available programs” for programs that meet the selection criteria of the user or “user query”, upon a user command (See column 11 lines 9-37). The user sets up the selection criteria, which allows the user to select one or more “program attributes”, which will be used for future searches, thus making the selection criteria a “prior query” (See Fig. 9 and 10; column 11 lines 46-55). The program guide is then updated to show programs that match the user’s selection criteria or “comparing attributes of said available programs ... to identify programs satisfying said query” (See column 11 lines 29-45). However, Schein et al. lacks a method where the “program attributes” are also maintained as “attribute-value pair”.

Wehmeyer et al. discloses a predictive agent that lists “programs attributes” that are of interest to the user and keeps a count of the number of times the user views certain “program attributes” or “attribute-value pair” (See Fig. 2; column 2 lines 33-56). The predictive agent uses this list to give the user a list of future programs that are of interest. Therefore, it would have been obvious to one with ordinary skill in the art at the

time the invention was made to modify the selection criteria disclosed by Schein et al. to include a count of the number of times a user views certain "program attributes" within the selection criteria, as taught by Wehmeyer et al., in order to provide a more accurate means of selecting programs that are of interest to the user.

Regarding claim 2, the method disclosed by Schein et al. in view of Wehmeyer et al. may be "performed automatically" upon user command (See Schein et al. column 11 lines 31-37).

Regarding claim 3, Schein et al. discloses that the user can command the system through a remote controller (which may include buttons or "single button click") or a switch on the device or "single button click" (See column 11 lines 9-15).

Regarding claim 4, Schein et al. in view of Wehmeyer et al. discloses a selection criteria, as previously discussed in claim 1, that can search for more than one attribute or "attribute-value pair". The multiple attributes or "top-N search terms" are used to find programs that are of interest to the user. Furthermore, the selection criteria is used for future searches, making the multiple attributes be "previously used in a query..." (See Schein et al. Fig. 9 and 10; column 11 lines 9-65).

Regarding claim 5, Schein et al. also discloses that the program guide can be customized to show certain channel numbers or "default terms", thus only allowing the search to display programs that are on those certain channel numbers or "supercede said corresponding top-N search terms" (See column 4 lines 28-34).

Regarding claim 6, Schein et al. in view of Wehmeyer et al. updates or "increments" a count indicating the number of times the user views certain "attribute-

value pair", as discussed in claim 1. The system checks or "decomposing" the predictive agent list or selection criteria or "attribute-value pair" to see it already exists, and increments a count if it does exist (See Wehmeyer et al. Fig. 2 and 3; column 2 lines 33-56).

Claim 7 contains the limitations of claim 1 (wherein the search performed includes generating a selection criteria or "user query", which is also considered as "constructing a query") and is analyzed as previously discussed with respect to that claim. Furthermore, the selection criteria, which contains the "attribute-value pair", is used for future searches, thus make the selection criteria or "query" a "prior query".

Claim 8 contains the limitations of claims 2 and 7 and is analyzed as previously discussed with respect to those claims.

Claim 9 contains the limitations of claims 3 and 7 and is analyzed as previously discussed with respect to those claims.

Claim 10 contains the limitations of claims 4 and 7 and is analyzed as previously discussed with respect to those claims.

Claim 11 contains the limitations of claims 5 and 7 and is analyzed as previously discussed with respect to those claims.

Claim 12 contains the limitations of claims 6 and 7 and is analyzed as previously discussed with respect to those claims.

Claim 13 contains the limitations of claims 7, 10, and 11 and is analyzed as previously discussed with respect to those claims.

Claim 14 contains the limitations of claims 8 and 13 and is analyzed as previously discussed with respect to those claims.

Claim 15 contains the limitations of claims 9 and 13 and is analyzed as previously discussed with respect to those claims.

Claim 16 contains the limitations of claims 11 and 13 and is analyzed as previously discussed with respect to those claims.

Claim 17 contains the limitations of claims 12 and 13 and is analyzed as previously discussed with respect to those claims.

Claim 18 contains the limitations of claim 1 and is analyzed as previously discussed with respect to that claim. Furthermore, Schein et al. discloses that the method can be implemented on a computer system, which includes a "processor" and "memory" (See column 3 lines 19-35).

Claim 19 contains the limitations of claims 7 and 18 and is analyzed as previously discussed with respect to those claims.

Claim 20 contains the limitations of claims 13 and 18 and is analyzed as previously discussed with respect to those claims.

Claim 21 contains the limitations of claim 1 and is analyzed as previously discussed with respect to that claim. Furthermore, Schein et al. discloses that the method can be stored on a CD ROM or "computer readable medium" as a computer program or "computer readable code" (See column 3 lines 50-63).

Claim 22 contains the limitations of claims 7 and 21 and is analyzed as previously discussed with respect to those claims.

Claim 23 contains the limitations of claims 13 and 21 and is analyzed as previously discussed with respect to those claims.

Response to Arguments

4. Applicant's arguments filed 08 March 2004 have been fully considered but they are not persuasive.

The objection to the abstract is now withdrawn in view of the amendments. Unfortunately, the objection to the drawings still stands due to the failure to properly file an amendment to the specification that complies with rule 37 CFR 1.121(b).

Applicant argues that Schein does not disclose the use of previously executed system queries in order to produce a new query. The claims state that a user query is generated wherein at least one attribute-value pair is selected based on a prior query. Respectfully, the system disclosed by Schein does meet this limitation. The user's response to the questions offered by the system becomes the selection criteria of the user or "user query". The system stores this information for future searches. The user can request the system to continually check all new program listings for potential favorites or check for favorites when requested by the user, where inherently the stored selection criteria of the user is used again to perform the search (See Schein column 11 lines 19-35). Therefore, the selection criteria of the user is also considered a prior query.

Applicant also argues that Wehmeyer does not retrieve the top-N attribute-value pairs. However, Wehmeyer does teach a feature to perform a search based on what is

important to the user; that is searching for programs that meet the selection criteria of the user. The predictive agent list (Fig. 2) keeps track of the number of times the user views a movie or program attribute. The predictive agent list ultimately serves as the selection criteria for a future search, wherein it is used to perform searches to find programs that are of interest to the user. The predictive agent list stores items that are of high priority to the user or "top-N search terms".

Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore respectfully, the rejection of claims 1-23 still stands.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Ustaris whose telephone number is (703) 305-0377. The examiner can normally be reached on Monday-Friday with alternate Fridays off from 7:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380. The fax phone number for this Group is (703) 872-9306.

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (703) 305-4700.



JGU
April 20, 2004



VIVEK SRIVASTAVA
PRIMARY EXAMINER